S.B. Civil Second Appeal No.117/2004
LRs of Fakhruddin
Vs
LRs Ram Gopal Kabra

DATE OF ORDER : - 3.8.2005

HON'BLE MR. PRAKASH TATIA,J.

Mr.KC Samdariya, for the appellant.
Mr.KR Saran, for the respondents.

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Heard learned counsel for the parties.

It is clear from the facts that the two courts below concurrently found that the plaintiff is in need of the suit premises bonafidely. The courts below also considered the application filed by the defendant-tenant for seeking amendment of the written statement to take a ground that the plaintiff's son Ganesh is doing business as partner in a firm, therefore, he is not sitting ideal, consequently, the plaintiff has no reasonable bonafide necessity. The said application of the defendant was dismissed by the court below. It is settled law that the person for whose need the suit is filed should remain ideal till he gets the possession of the suit property. From the record also no illegality has been found by this Court. No substantial questions of law is involved in this appeal, therefore, the appeal is liable to be dismissed as no substantial question of law is involved.

Hence, the appeal of the appellant is dismissed.

At this stage, learned counsel for the appellant submitted that looking to the peculiar facts of the case, a reasonable time upto Dec., 2007 may be granted to the appellant to vacate the suit premises as the appellant will have to make arrangement for shifting his business and according to learned counsel for the appellant, the plaintiffs are not going to suffer in case some more time is granted to the tenant. Learned counsel for the respondent-landlord vehemently submitted that no time be granted and even if any time is granted then a short time of six months can be granted.

I considered the facts of the case and perused the record also. In the peculiar facts and circumstances of this case, it will be just and proper to allow the tenant to remain in possession of the suit shop till 31st Dec., 2006 provided he furnishes a written undertaking within a period of three month from today that he shall hand over the vacant possession of the suit shop to the landlord on or before 1st Jan., 2007 and he shall not part with possession and shall not sub-let the suit shop. He shall also pay all the arrears of rent and decretal amount to the plaintiffs or may deposit the said amount in the trial court within a period of two months from today. The appellant shall also pay the rent month by month by 15th day of each succeeding month of his tenancy

and may deposit the said amount in the trial court. In case of non-compliance or default the decree shall become executable forthwith.

(Prakash Tatia), J.

c.p.goyal/-